

## **REMARKS**

Claims 1-15 are pending herein. Claim 1 has been amended to more clearly recite the subject matter of the present invention. Claim 10 has been amended to depend from claim 2, in order to obviate a rejection under 35 USC §112, second paragraph. New claim 15 recites a preferred embodiment of the present invention. Support for new claim 15 is found in claim 1 and the specification at page 7, paragraph 37. In light of the above amendments, new claims and following remarks, Applicants request reconsideration and allowance of all pending claims.

Claims 1, 5, 11 and 13 were rejected under 35 USC §102(b) as being anticipated by Levinson. Applicants traverse this ground of rejection for at least the following reasons.

The present invention, as recited in amended independent claim 1, is directed to a packaging assembly for food products to be cooked or heated in microwave ovens, which comprises an inner wrapper which contains the food product, said inner wrapper capable of transmitting heat or steam to; an outer package of plastic material which encloses said inner wrapper; at least one layer of a heat-concentrating material; and a substrate attached to an outer face of said outer package; wherein said at least one layer of heat-concentrating material causes the opening of the outer package by melting a portion of the outer package, during heating of the assembly in a microwave oven.

New independent claim 15 is directed to a packaging assembly for food products to be cooked or heated in microwave ovens, which comprises an inner wrapper made of paper which contains the food product, said inner wrapper capable of transmitting heat or steam to an outer package of plastic material which encloses said inner wrapper; at least one layer of a heat-concentrating material; and a substrate attached to an outer face of said outer package; wherein

said at least one layer of heat-concentrating material causes the opening of the outer package by melting a portion of the outer package, during heating of the assembly in a microwave oven.

Levinson discloses a food package 7 for reconstituting therein a frozen convenience food 1 in a microwave oven. Food 1 is enclosed in and contacted by a perforated plastic film 2 which in turn is enclosed in a microwave-permeable, water and food by-product absorptive material 3 where all is enclosed by a microwave-permeable, liquid-barrier plastic film 4 and, finally, all of which is enclosed by a microwave-permeable, heat-insulating material 5. Column 3, lines 26-34.

In Levinson, the inner wrapper does not cause the outer wrapper to open by virtue of the heating of the inner wrapper, as in the present invention. In fact, the invention of Levinson vents the steam generated during heating, rather than using it to open an outer wrapper. Column 4, lines 30-34. Accordingly, Levinson does not anticipate the present invention as recited in amended independent claim 1. Thus, the rejection under 35 USC §102(b) should be withdrawn and the application be forwarded to issue.

Furthermore, in Levinson, the wrapper that directly contacts the food product is plastic, whereas in the present invention, as recited in new claim 15, the wrapper that contacts the food is made of paper. Accordingly, Levinson does not anticipate the present invention as recited in independent claim 15. Thus, the rejection under 35 USC §102(b) should be withdrawn and the application be forwarded to issue.

Claims 2, 6 and 10 were rejected under §103(a) as being unpatentable in view of Levinson as applied to claims 1, 5, 11 and 13 in view of Borek. Applicants traverse this ground of rejection for at least the following reasons.

As discussed, Levinson discloses a food package 7 for reconstituting therein a frozen

convenience food 1 in a microwave oven. Food 1 is enclosed in and contacted by a perforated plastic film 2 which in turn is enclosed in a microwave-permeable, water and food by-product absorptive material 3 where all is enclosed by a microwave-permeable, liquid-barrier plastic film 4 and, finally, all of which is enclosed by a microwave-permeable, heat-insulating material 5. Column 3, lines 26-34.

The Examiner admits that Levinson does not disclose a heat insulating layer attached to an inner part of the outer package.

Borek is cited for its disclosure that heat is lost in microwave packages to the microwave oven floor and that a heat insulating layer glued to the inner part of the outer package to make heating more efficient.

Applicants submit that there is no teaching or suggestion in Levinson that would lead one of ordinary skill in the art to combine that reference with the cited reference of Borek in order to attach a heat insulating layer attached to an inner part of the outer package. Levinson merely states that a microwave permeable heat insulating permeable material is optional. Column 4, lines 40-41. There is absolutely no suggestion in Levinson that the heat insulating material be attached to a specific portion of the package, as is recited in independent claims 1 and 15 of the present invention. Accordingly, one of ordinary skill in the art would not be motivated to modify the package assembly of Levinson to include heat insulating material on an inner portion of the outer package. Accordingly, the present invention is not obvious in view of Levinson and Borek. Thus, the rejection under 35 USC §103(a) should be withdrawn and the application forwarded to issue.

Claims 1, 3-5, 7, 11-14 were rejected under 35 USC §102(a) as being unpatentable over Engstrom et al. in view of Cox. Applicants traverse this ground of rejection for at least the following reasons.

The present invention, as recited in amended independent claim 1, is directed to a packaging assembly for food products to be cooked or heated in microwave ovens, which comprises an inner wrapper which contains the food product, said inner wrapper capable of transmitting heat or steam to; an outer package of plastic material which encloses said inner wrapper; at least one layer of a heat-concentrating material; and a substrate attached to an outer face of said outer package; wherein said at least one layer of heat-concentrating material causes the opening of the outer package by melting a portion of the outer package, during heating of the assembly in a microwave oven.

New independent claim 15 is directed to a packaging assembly for food products to be cooked or heated in microwave ovens, which comprises an inner wrapper made of paper which contains the food product, said inner wrapper capable of transmitting heat or steam to an outer package of plastic material which encloses said inner wrapper; at least one layer of a heat-concentrating material; and a substrate attached to an outer face of said outer package; wherein said at least one layer of heat-concentrating material causes the opening of the outer package by melting a portion of the outer package, during heating of the assembly in a microwave oven.

Engstrom discloses an outer container having a base and a plurality of sidewalls. Column 2, lines 37-39. As illustrated in Figs. 2 and 3 of that reference, in Engstrom, the pouch 29 is comprised of a pair of opposed layers of synthetic, high polymer film 30 and 31. Column 6, lines 46-47.

The Examiner admits that Engstrom is silent on teaching a heat concentrating material, such as the susceptor of the present invention.

Cox is cited for its disclosure of heat concentrating material.

Applicants submit that there is no teaching or motivation in Engstrom that would lead one of ordinary skill in the art to combine that reference with Cox in order to arrive at the package assembly of the present invention. Furthermore, even if one of ordinary skill in the art would have found it obvious to combine the invention of Engstrom with the heat concentrating material disclosed in Cox, the result would not be the present invention.

In the present invention, the packaging is comprised of discrete layer, i.e., not layers of film that have been bonded together to make a pouch, as in Engstrom. In Engstrom, the layers of the pouch are of synthetic high polymer film. In the present invention, one of the layers is paper. Further, there is no teaching in Engstrom that a heat concentrating material would even be necessary or needed between the two layers. In fact, providing a heat concentrating material between the two layers of high polymer film would most likely result in melting the film, thereby defeating the purpose of the packaging. Accordingly, the present invention is not obvious in view of Engstrom and Cox. Thus, the rejection under 35 USC §103(a) should be withdrawn and the application should be forwarded to issue.

Claims 2, 6 and 10 were rejected under 35 USC §103(a) as being unpatentable over Engstrom et al. in view of Cox, further in view of Borek. Applicants traverse this ground of rejection for at least the following reasons.

Claim 2 and 6 depend from claim1. Amended claim 10 depends from claim 2. As discussed, the present invention, as recited in amended independent claim 1 and new claim 15, is

not obvious in view of any of the cited reference. Accordingly, no claims depending from an independent claim that recites unobvious matter is obvious in light of the same references. Accordingly, the rejection under 35 USC §103(a) should be withdrawn and the application be forwarded to issue.

Claim 8 was rejected under 35 USC §103(a) as being unpatentable over Engstrom et al. in view of Cox, further in view of Smart et. al.

Claim 8 depends from claim 1. As discussed, the present invention, as recited in amended independent claim 1 and new claim 15, is not obvious in view of any of the cited reference. Accordingly, no claims depending from an independent claim that recites unobvious matter is obvious in light of the same references. Accordingly, the rejection under 35 USC §103(a) should be withdrawn and the application be forwarded to issue.

If any additional fee is believed to be required for entry of this Amendment and Response, the Commissioner is authorized to charge any required fee to Deposit Account No. 50-0518 .

Respectfully submitted,

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